

CHAPTER 955

An act to add Section 27491.41 to the Government Code, relating to sudden infant death syndrome.

[Approved by Governor September 29, 1989. Filed with Secretary of State September 29, 1989.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1069, Boatwright. Sudden infant death syndrome.

Existing law requires the coroner to inquire into and determine the circumstances, manner, and cause of deaths where the suspected cause of death is sudden infant death syndrome (SIDS) and requires the coroner or a deputy to personally sign the certificate of death in those cases. Existing law also requires the coroner, within 24 hours or as soon as feasible thereafter, where the suspected cause of death is SIDS, unless the infant's physician of record certifies SIDS as the cause of death and a parent objects to an autopsy, to perform a postmortem examination or autopsy.

This bill would require the State Department of Health Services to convene a sudden infant death syndrome autopsy protocol committee to adopt a protocol for performance of autopsies in cases where there is a sudden and unexpected infant death and would require all autopsies performed by the coroner in those cases to be conducted in accordance with the protocol. This bill also would require the coroner to state on the certificate of death that sudden infant death syndrome was the cause of death when the coroner's findings are consistent with a specified definition of SIDS.

This bill would authorize the coroner to take tissue samples from infants who have died suddenly and unexpectedly for research purposes if the tissue removal is not likely to cause visible disfigurement. The bill would specify that a coroner shall not be liable for damages in a civil action for any act or omission done in compliance with the above. The bill also would require the department to establish procedures and protocols for access by researchers to any tissues, or other materials or data authorized pursuant to the above.

Since this bill would create additional duties for coroners, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$1,000,000, shall be made from the State Mandates Claims Fund.

The people of the State of California do enact as follows:

SECTION 1. Section 27491.41 is added to the Government Code, to read:

27491.41. (a) For purposes of this section, "sudden infant death syndrome" means the sudden death of any infant which is unexpected by the history of the infant and where a thorough postmortem examination fails to demonstrate an adequate cause of death.

(b) The Legislature finds and declares that sudden infant death syndrome (SIDS) is the leading cause of death for children under age one, striking one out of every 500 children. The Legislature finds and declares that sudden infant death syndrome is a serious problem within the State of California, and that public interest is served by research and study of sudden infant death syndrome, and its potential causes and indications.

(c) To facilitate these purposes, the coroner shall, within 24 hours, or as soon thereafter as feasible, perform an autopsy in any case where an infant has died suddenly and unexpectedly.

(d) The autopsy shall be conducted pursuant to a standardized protocol developed by the State Department of Health Services. The State Department of Health Services shall convene a sudden infant death syndrome autopsy protocol committee to develop and establish the protocol. The committee shall include, at a minimum, State Department of Health Services staff with expertise in sudden infant death syndrome, an epidemiologist, a forensic pathologist, a pediatric pathologist, a medical examiner, a county coroner, and a pediatrician with expertise in sudden infant death syndrome and child abuse. The protocol is exempt from the procedural requirements pertaining to the adoption of administrative rules and regulations pursuant to Article 2 (commencing with Section 11342) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. The committee may amend or modify the protocol as appropriate. The protocol shall be developed and approved by July 1, 1990.

(e) The protocol, as developed by the committee, shall be followed by all coroners throughout the state when conducting the autopsies required by this section. The coroner shall state on the certificate of death that sudden infant death syndrome was the cause of death when the coroner's findings are consistent with the definition of sudden infant death syndrome specified in the standardized autopsy protocol. The protocol may include

requirements and standards for scene investigations, requirements for specific data, criteria for ascertaining cause of death based on the autopsy, and criteria for any specific tissue sampling, and any other requirements. The protocol may also require that specific tissue samples must be provided to a central tissue repository designated by the State Department of Health Services.

(f) The State Department of Health Services shall establish procedures and protocols for access by researchers to any tissues, or other materials or data authorized by this section. Research may be conducted by any individual with a valid scientific interest and prior approval from the State Committee for the Protection of Human Subjects. The tissue samples, the materials, and all data shall be subject to the confidentiality requirements of Section 10805 of the Health and Safety Code.

(g) The coroner may take tissue samples for research purposes from infants who have died suddenly and unexpectedly without consent of the responsible adult if the tissue removal is not likely to result in any visible disfigurement.

(h) A coroner shall not be liable for damages in a civil action for any act or omission done in compliance with this section.

(i) No consent of any person is required prior to undertaking the autopsy required by this section. However, if the physician of record certifies the cause of death is sudden infant death syndrome and the parents object to an autopsy on religious or ethical grounds, no autopsy shall be required.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.